

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of )  
 )  
Carriage of the Transmissions )  
of Digital Television Broadcast Stations )  
 )  
Amendments to Part 76 )  
of the Commission's Rules )

CS Docket No. 98-120

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**REPLY COMMENTS OF THE CALIFORNIA CHANNEL**

John Hancock  
President  
The California Channel  
1121 L Street, Suite 502  
Sacramento, California 95814  
(916) 444-9792

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**I. INTRODUCTION AND SUMMARY**

The California Channel is a charitable, educational non-profit corporation created in 1991 by cable television operators and public interest foundations to provide public affairs television programming to the citizens of California. The primary function of the network is to televise the proceedings of the California State Legislature. Since 1994, The California Channel has been funded entirely by contributions from California's cable television industry to provide an electronic bridge between Californians and the state's governing institutions.

The California Channel provides California's cable subscribers access to "gavel-to-gavel" proceedings of the State Assembly and State Senate, and other fora where public policy is discussed, debated, and decided --- all without editing, commentary, or analysis and with a balanced presentation of differing viewpoints. Over 90 percent of its programming hours are devoted to televising the State Legislature.

The California Channel is currently carried throughout the state on 111 cable systems, representing 5.1 million cable subscribing homes, schools and businesses. Contributions are being provided, regardless of their current ability to carry The California Channel, by 175 cable companies serving some 6.2 million subscribers. The California Channel employs only four full-

time employees, and operates on a \$1.2 million annual budget. Over half of its annual budget is used to purchase satellite time and to deliver 32.5 hours of weekly programming.

The California Channel's regular programming hours are 9 am through 3:30 pm, Monday through Friday. These hours allow The California Channel to broadcast most legislative floor sessions and committee hearings live. However, since The California Channel can only air one event at a time, all proceedings are taped for future playback as scheduling permits.

The concept for the California Channel evolved from a two year feasibility report conducted at the USC Annenberg School of Communications. That exhaustive study clearly demonstrated the total lack of state legislative media restoring public confidence in the political process. This study served as the impetus for our creation, and has since been used by several other states.

In these comments The California Channel will inform the FCC of the dire implications that any form of mandated digital transmission carriage of television broadcast stations during the transition period would have on The California Channel and its ability to maintain and expand its current level of contribution to the public interest.

## **II. THE UNIQUE PUBLIC INTEREST CONTRIBUTION OF THE CALIFORNIA CHANNEL WOULD SUFFER IRREPARABLE HARM IF DIGITAL TV TRANSMISSIONS WERE GIVEN MUST-CARRY RIGHTS DURING THE TRANSITION PERIOD TO FULL DIGITAL BROADCASTING**

The very nature of public affairs programming at any level presents challenges faced by no other programming service. The California Channel strives daily to present a video product that will have the broadest public appeal, but the reality is that it serves a highly specialized niche.

The majority of Californians, like most Americans, rely on television as their principal source of information. Yet it was the broadcasters' lack of government coverage, evidenced by

their occasional 10-second state capitol news blip, sandwiched between the latest murder and most recent fire report, that created the need for cable programming services such as The California Channel.

Before the creation of The California Channel, the most-watched broadcast news programs in five California metropolitan areas (comprising two-thirds of the state's population) devoted only 1.7% of their coverage to state legislative issues. At the same time they spent one-third of their news hour on advertising and station promotions. Even sports and weather outranked legislative news.

In the year prior to the creation of The California Channel, of 253 bills identified as "significant" by legislative aides and acted upon by lawmakers during the closing days of session, only 15 were covered by television, 14 by radio and 83 by newspapers. A scant 10 bills were covered in all five major state markets, mostly by newspapers, and even fewer received five-market broadcast television coverage. Those who relied on broadcast news for information during the busiest legislative period of the year learned little of state public affairs.

Actions of the governor, executive branch agencies and the courts also received minimal attention during this period. Although their actions, like legislative bills, directly affect the lives of Californians, they receive on average less than 45 seconds per hour of broadcast news coverage. In all, California broadcasters covered only one-fourth as many state executive branch and court stories as did California newspapers.

Many believe that it is the inadequate media coverage of state government that undermines the quality of representative government in California and others states, and that this strongly contributes towards a high and dangerous level of political ignorance on the part of citizens. An inactive and ill-advised electorate cannot make informed democratic decisions on

elections, taxes, education, crime, transportation, environmental pollution, child care and other critical issues.

Should the FCC require any form of must-carry of digital broadcast transmissions during the transition from an analog to a digital broadcast environment, cable operators will have little choice but to cease carriage of some cable programming services to create the required channel capacity necessary for compliance. Which of those services is dropped by individual operators will depend upon a number of factors: subscriber demand, contractual obligations, franchise obligations, cost, revenue potential, retransmission-consent, must-carry compliance/obligations and programming content duplication.

Small, niche-market public affairs networks like The California Channel will undoubtedly be within the first round of cable programming casualties created by any form of transitional digital must-carry. In California, home of two of the nation's largest broadcast markets, displacement of such a public affairs network would not only be certain (based on prior analog must-carry experience) but also disproportionate. Should the Commission grant any form of transitional digital must-carry, those broadcasters in Los Angeles and San Francisco, who have been beginning digital transmissions this fall, could immediately displace The California Channel from over 2.5 million cable subscribing homes --- 50 percent of its current viewing potential.

Broadcasters have already proven their news coverage priorities, so there is little doubt that they will continue to ignore the need for responsible public affairs programming. This would leave these two major markets without any in-depth reporting of the state legislative and executive branches. Then, as other smaller California market broadcasters begin digital transmissions, The California Channel could quickly find itself robbed of any metropolitan area

carriage, and all citizens in these areas would find themselves without legislative and other state capitol coverage.

The greater common good is not served by duplicative broadcast entertainment, as opposed to programming specifically designed to preserve and invest in our democratic process. If the FCC determines that some form of transitional digital must-carry is appropriate, it will be casting a clear vote against such unique and significant services as The California Channel.

The California Channel endured the hardships of displacement and dilatory launches of its service created by the analog must-carry requirements --- some of which still linger. But it was able to survive because of the carriage it enjoyed in the significant larger markets of California. If those major markets became the first displacement hits this service had to endure in the digital era, its continued statewide carriage --- and survival --- would be seriously jeopardized.

The California Channel has been granted exempt status by the Internal Revenue Service. This status recognized the public service mission of the network to educate Californians on critical governmental and policy issues confronting the state. This network produces no advertising revenue opportunity for operators to recoup their carriage costs. In fact, it costs cable operators channel space in addition to their monthly voluntary contributions.

Requiring any digital broadcast transmission must-carry during the transition would not only severely curtail the availability of our service, but could realistically result in our closure. Cable operators would be faced with increased expenses for providing digital transmissions, and therefore would be potentially less willing to make contributions to a service such as The California Channel, especially if they are unable to utilize the service on their own systems.

Careful attention must be given to preserve the fragile framework that cultivates niche public affairs programming services with a non-profit educational status, contribution-based

revenue stream, limited staffing and audience potential, and educational mission. The California Channel asks that consideration be given to FCC encouragement of the carriage, protection and preservation of this unique service.

### **III. CONCLUSION**

For those niche programming services like The California Channel that experienced significant carriage setbacks and direct displacement from the must-carry requirements for analog broadcast services, any new demand for must-carry of digital transmissions threatens a new regime of regulatory terrorism from the continuation and expansion of the federal government's expressed preference for broadcast over cable services. The FCC would be sending a clear signal to the American public and cable investors that the preservation of all commercial broadcast programming services --- even those not yet developed --- is of more importance to the public good than the preservation of cable's programming diversity, and keeping our window of democracy open.

The 1992 must-carry rules were difficult enough for The California Channel to survive and overcome, but mandatory digital signal carriage in addition, due to the sheer number of California broadcast affiliates, would imperil its carriage on virtually all California cable systems.

Respectfully submitted,

THE CALIFORNIA CHANNEL

By John Hancock

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President  
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Sacramento, California 95814  
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